Before the
Federal Communications Commission
Washington DC 20554

In the Matter of:

Schools and Libraries Universal Service Support Mechanism - Third Report and Order and Notice of Proposed Rule Making	)	CC Docket No. 02-6

Initial Comments of the Illinois State Board of Education (ISBE)

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Introduction

Initially, the Illinois State Board of Education ("ISBE") wants to thank the Federal Communications Commission ("FCC or "Commission") and the Universal Service Administrative Company / Schools and Libraries Division ("SLD or Administrator") for its on-going commitment to the Universal Service Program for Schools and Libraries ("E-Rate" or "Program"). The Program has successfully spurred connectivity across our State, especially for K-12 schools and districts in economically-disadvantaged and rural areas of Illinois. Again, we thank you for your important work.

ISBE is appreciative of the Commission for issuing the Third Report and Order addressing a number of E-Rate issues of concern. ISBE also is appreciative of the Second Further Notice of Proposed Rulemaking, which asks for more specific comments on moving forward with important issues with concern to the applicant community. Once again, we applaud the FCC and the SLD in implementing and administering a complicated, heavily scrutinized program that weaves together a host of laws, rules, and regulations. We look forward to the FCC's review of these frank, honest comments based on our first-hand experience with applicants, and submitted to improve the program. More importantly, we continue to stand ready to assist the Commission in the implementation of these important reforms.

ISBE respectfully submits these comments as an agency involved in a variety of programmatic roles:

- as the lead agency representing primary and secondary public schools across the State of Illinois;
- as a reviewer and approval agency for technology plans;
- as a key verification point for the SLD in its reviews of discount levels and entity eligibility;
- as a support agency for the Illinois statewide internet access network, the Illinois Century Network (ICN);
- and finally -- and in its most important role -- as the lead agency that assists Illinois K-12 public and non-public schools with program applications, appeals and reviews.

ISBE also supports the efforts of the State E-Rate Coordinators Alliance (SECA) of the Chief Council of State School Officers (CCSSO), and has assisted them in their comments filed in this proceeding. We offer these Illinois-specific comments as a complement to those in order to highlight issues that are critical to our schools.

There is no doubt that the E-rate program is a very real benefit to our schools by providing monies and resources to improve teaching and learning. However, we believe that almost seven years of experience allows everyone involved to reflect on its successes and ways to improve to the program. Accordingly, we submit these comments in an effort to:

- streamline the process and cut the administrative burden to make it more inclusive of schools;
- further the legislative goals of the program while continuing to push for an equitable distribution of program dollars;
- prevent fraud, waste and abuse so that the program's resources are appropriately and efficiently spent.

At the same time, we respectfully disagree with parties who would eliminate the program without offering and supporting a viable alternative to assist schools and libraries in this important policy area, especially so in a time of diminished federal support to states and schools.

Throughout the process, it is imperative that the FCC and SLD treat E-Rate applicants as customers -- customers who cannot spend precious administrative time and money to comply with the myriad and often confusing program rules and regulations that appear to do more to discourage applicants than to root out fraud, waste and abuse. The Commission should recognize that despite all of our best efforts, many schools do not apply simply because the administrative burdens outweigh the benefits. Hence, the roles that state educational agencies such as ISBE play -- including face-to-face contact to complete the application and reimbursement process -- are critical to program success. Toll-free numbers and web-sites are good and important, but they do not go far enough in assisting applicants to successfully apply, much less have them remain active participants and supporters.

We have no doubt that the level of scrutiny by Congress, the FCC, the GAO and others is very high. Yet, we believe the answers are not to add Rules and Regulations, but instead simplify the program and make the accountabilities easier and stronger. Hence, much of the focus of our comments is to simplify the program without a loss of accountability. As is our custom, we ask our schools (public and non-public) to offer us their comments and recommendations to direct our filing here. We note here that we cannot understate the levels of applicant frustration with the cumbersome, and at times, unfair application and review process -- our comments need to reflect their sentiments. More than anything else, schools are frustrated with the process, and many - including some of the smallest that do not have the personnel to work the program - have opted out of the program rather than continue working on an application that is as likely to get denied as approved. In short, the process is weighing down the program.

Throughout the process, ISBE will continue to assist schools to get through the application process, despite deep deficits and budget cuts at the State and local level. We agree with our schools that the program has to become easier and more equitable, not more complicated. We offer our comments in this section with this in mind.

As any other commenter, ISBE may not comment on all areas of inquiry in the Third Report and Second Notice, but reserve the right to comment on issues raised by commenters in their Reply Comments.

Discount Matrix

In this section, the Commission seeks comment on the effectiveness and efficiency of the current discount matrix used to determine support payment for eligible applicants, products and services. Over the last three years, in past NPRM comments and in hearings and meetings before the FCC and SLD, the ISBE and individual state members have pushed for reforms in this important area. We once again offer Illinois-specific comments in this important area, and ask the Commission to also note the comments of the State E-rate Coordinator's Alliance (SECA), of which we are members and have assisted in their comments.

Keep the Existing Priority One Discount Matrix

ISBE believes that the current discount matrix for Priority One services (telecommunications and internet access) should be maintained. Priority One services are the only way that a majority of schools receive monies from the program. Also, we believe that there are several important safeguards within the Priority 1 service group to minimize any potential for waste, fraud and abuse. Among these is the fact that most telecommunications services have publicly posted, tariffed, or easily accessible rate sheets to guard against excessive charges. Moreover, few schools buy more phone lines and data lines than needed, simply because the non-discounted portions of such expenditures are higher and are capped by limited budgets. As well, the FCC and SLD have much better scrutiny over the payments to telecommunications carriers, and the carriers monitor these payments as well. As they are also subject to audit, the carriers themselves will only discount on-going services, or provide BEAR Form reimbursements after an accounting of actual costs during the year. In short, there are several other safeguards in place for Priority 1 services that are not in place for other eligible program services.

Modify the Priority Two – Internal Connections - Discount Matrix

ISBE believes that in order to achieve greater equity, efficiency, and to discourage waste, fraud and abuse, there should be changes to the discount matrix for Priority 2 – Internal Connections goods and services. To summarize, we believe the maximum discount level for internal connections services funding should be capped at 70%. Using the current Urban/Rural discount matrixes, we recommend that the FCC reduce the internal connection discounts for applicants in the two highest discount bands to a rate of 70 percent and implement other changes per the table below:

ISBE recognizes the vast majority of program waste and abuse occurs with internal connection funding requests, particularly at the 90 percent discount level. In many cases, internal connection vendors have made a concerted effort to target 90 percent discount applicants with sometimes extravagant, expensive and often unnecessary internal connections equipment and service. With vendors going after 90 cents on the dollar, and schools only paying the other 10 cents, there is little reason to wonder why most fraud and abuse has occurred in these areas -- the rewards are the greatest and the cost is the least.

While we concur with the Commission's desire to ensure connectivity in the nation's poorest schools and libraries, we believe a ten percent match does not provide enough incentive for applicants to limit internal connection funding requests. Often such requests include excessive hardware purchases and maintenance agreements. These agreements go far beyond that necessary to support a stable, robust LAN/WAN for internet access, data and video support. ISBE believes that a minimum 30 percent applicant match (i.e. a 70% discount), verses the current 10 percent match, would significantly diminish program waste and abuse.

The other ***very*** intended – and ***very*** positive -- result of our recommendation would be to provide needed internal connections funding to many libraries and schools in the 50 to 80 percent discount categories. These schools and libraries have not seen any internal connections monies since Year 2 of the program. As we now contemplate discount levels for Funding Year 2005 (Year 8) of the program, we believe it is well past due for the Commission to make these important changes to promote equity among the applicant community. We believe that these changes to the matrix, as well as the proposed "Frequency of Discounts" recommendation in the Third Report and Order will go a long way in promoting more equity in this important programmatic area.

The Commission also asks that commenters address implementation issues surrounding any proposed changes. One question asks for comments on what should be done if there are insufficient funds remaining under the annual cap to support all requests for discounts at a particular discount level. The Commission states the current policy is to allocate funds on a pro-rata basis among applicants at the particular "cut-off" point for available funds (47 C.F.R @54.507(g)(l)(iv). We believe that this policy -- in place though to date never used by the SLD – is an appropriate policy and methodology to assure that as many eligible applicants as possible receive some internal connections discounts to make long-overdue replacements to their LAN/WAN's.

In response to questions regarding burdens and transitions to a new matrix level, we submit that the best way to avoid problems is to give applicants ample time and notice of the new matrix. Alert them as soon as possible of the new matrix and rules. Do not wait until applicants have already submitted 470's and 471's for Funding Year 2005, then give notice of a new discount matrix. Applicants will accommodate their budgets, purchases and network plans if given ample notice. We repeat that the best solution is sufficient notice to the applicant community. The Commission has acted accordingly and appropriately in the Third Report as it pertains to the frequency of discounts for Priority Two services in Funding Year 2005 (see Third Order at 12). By letting applicants know that there will be changes to the ability of applicants to apply for internal connections, the FCC has given applicants and state coordinators time to structure their efforts. The FCC should strive to do no less and provide ample notice of any proposed changes to the discount matrix. We believe this issue has been discussed long enough – it is time for a decision and action.

Competitive Bidding Process – Changes to the Form 470

ISBE believes that the competitive bidding process – and its accompanying Form 470 regulations -- should be modified to reflect six years experience with the current system. Looking back, the Commission set in place in its May 8, 1997 Report and Order these Rules, including the Form 470 and the 28-day wait period in order to foster competition and ensure that pre-discounted prices were as low as possible – all good and proper goals. But applicants are telling us that the results have not matched these goals. Direct experience with applicants has shown us that few applicants receive viable bids as a result of their Form 470 postings. In fact, most entities do not receive bids from their incumbent providers, let alone from competitors. Unfortunately, the 470 has been one of the most anti-competitive, most prohibitive aspects of the program for many applicants. It is time to simplify and reform this process.

The FCC must realize that for most applicants, making the 470 more stringent won't solicit additional bids and competitive situations, nor will it necessarily lead to cost-effective purchasing decisions -- hence the Commission should not use the Form 470 to enforce, or encourage such outcomes. The FCC and the SLD should encourage and enforce cost-effective purchasing through post 471, and pre-funding commitment reasonableness reviews, not use a more stringent, more burdensome 470. We believe the results of this policy and practice has not been welcome by most, if not all of the applicant community.

The Administrator has stated publicly in its presentations to State coordinators that one of the primary reasons for funding denials is applicants' inability to comply with the E-rate program's competitive bidding requirements, particularly the posting of the Form 470 and the 28 day bidding requirement. As such, ISBE recommends that the Commission reconsider the value of the Form 470 and the 28-day bidding requirement. The Commission should recognize that a process which leads to the one of the largest number of denials should be a prime candidate for review and modification.

At the Program's inception, there was a presumption of a "growing competitive marketplace" of which schools and libraries were expected to avail themselves (Universal Service Order, Paragraph 575). In addition, to further expand the reach of competition beyond local companies, the Commission required that an application describing the school or library's technology needs should be posted on a website maintained by the program administrator (Universal Service Order, Paragraph 576, 47 CFR 54.511). Finally, the Commission believed that in order to provide access to any potential bidder, requests should be posted on the website at least 28 days. (Universal Service Order, Paragraph 579)

To put it mildly, Illinois applicants have not been very positive about the results of this Rule. First, in remote rural areas, applicants have rarely received responses from capable bidders interested in offering services. Second, in urban areas, large applicants have been inundated with advertisements and marketing materials not relevant to the particular request. Many smaller applicants have not received any response to the

posting, even from the only provider eligible to provide service, the local telecommunications carrier. This has caused applicants to view the Form 470 as merely a stumbling block to acquire services and discounts, rather than an opportunity for broader access to relevant and competitive services. Finally, larger school districts most often have their own state and local procurement rules and practices that allow for an ample bidding process. In short, the Form 470 bidding process has added little to the competitive marketplace, and as noted by other comments, is a major stumbling block for the applicant community.

Unfortunately, we again note that the Commission seems adamant about putting even more weight on the current 470 process as a vehicle to accomplish its goals. The FCC's decision on the now-famous *Ysleta* case stemmed from violations on the 470, not on the questionable scale, size and scope of the funding requests in question. Also, the Commission is using the posting of the 470 to now set timeframes and content requirements for technology plans and other rule changes which – to an applicant – are only more bureaucratic hurdles, and more reasons for denials. The Commission needs to throttle back the 470 process and examine why its there and what is it supposed to accomplish. Ideally, we would argue that the entire 470 process needs to be abolished. Nevertheless, we understand the Commission's need to fulfill the intent of the Order in this case.

In response, ISBE offers a middle ground that would support the program's goals, while allowing notification of all potential bidders, as well as eliminating some of burdensome aspects of the Form 470. First, eliminate the 28-day wait and use current state and local procurement rules to govern competitive bidding processes. Second, simplify the Form 470 so that is it is a public notice of intent, which most school districts already employ under any applicable state or local procurement rules. This Form could be updated annually if there is a substantive change in the services needed in a particular year. This would streamline the application and review process while maintaining fair and equitable access for all service providers. Third we would ask that the Commission consider establishing a non-binding, voluntary "vendor 470" that vendors would submit to an SLD administered site to facilitate the connection between vendors and applicants. The "vendor 470" would allow applicants to search by zip code or other search facility for vendors in their areas. To date, the Commission continues to place too much of the burden for procurement on applicants; we believe vendors should now also contribute to the effort – and we believe most will

Finally, we ask that the Commission do away with the need for the submission of a Form 470 Certification Page. Too many applicants have been denied funds for not submitting a page that has absolutely no significance. A certification page is not needed to post the Form; to receive calls from vendors; to negotiate and procure services; and finally, to choose the most cost-effective product or service. But is has been a problem if for whatever reason (including very possible errors at the SLD processing center) the Certification Form has not been entered in the system.

Unfortunately, the Form 470 has now been used as another obstacle to most applicants, and most importantly, an obstacle to the applicant's ability to take advantage of competitive and emerging competitive markets. For most small and medium-sized applicants, the Form 470 is viewed as a stumbling block that does nothing to achieve its stated goals of opening competitive markets and offering cost-effective solutions. The fact is most applicants accomplish these goals in spite of the Form 470, not as a result of it.

The Commission has failed to recognize in its 470 Rules that markets do not become competitive during a 28-day window between September and January of every year. Markets become competitive ***at any time throughout the year and without warning.*** As such, applicants should be able to exercise that freedom throughout the year. Ironically, even if the applicant could take advantage of a new, more efficient, more cost-effective, competitive service offering during the year with another vendor, it may be precluded to do so – because of the current rules on the 470 and posting of services. Staying with a more costly, less cost-efficient provider may satisfy the current rules surrounding the Form 470, but in fact, works against the larger reasons for the 470 in the first place, and only leads to program waste.

In short, we believe that so long as a school stays within its funding cap, and can prove that it has the money to pay the undiscounted portion, the Form 470 and the program should not get in the applicants way of taking advantage of progressively competitive markets, and therefore, more cost-effective uses of program funds.

We repeat that the FCC and the SLD should not use the 470 as the process to deny applicants -- it should use reasonableness and cost-effectiveness tests to do so. If there are issues with larger applicants requests, including needing further review for possible waste and abuse, then that should occur in the post 471-pre-funding commitment phase of the application review process. So far, in Ysleta case, what we have seen are blanket policy and procedural changes and additional 470 and tech plan burdens on all applicants, not focused efforts to get at the eligible services and cost issues with the Ysleta application.

ISBE does not want to diminish the FCC's and SLD's ability for oversight -- on the contrary -- but the Commission cannot allow the cure to be worse than the problem. We believe that the SLD needs to make reasonableness reviews, but not use the 470 to do it. In a later section of these comments, we offer some recommendations for how the FCC and the SLD can accomplish these important goals.

In summary, ISBE proposes that simple, streamlined regulations remain in place for Web posting of a Form 470 by applicants seeking discounted services. These regulations should rely on any established state and local procurement rules. Regulations requiring 28 days posting prior to signing contracts should be discontinued and signed certification pages should not be required. Also, the posting form needs to be simple and to the point. A version of a voluntary "vendor 470" should also be established to facilitate applicants searching for vendors. We also note here that the simplified posting

should not include confusing, and potential "ambush" questions such as check offs for a "Categories of Service" boxes that are no longer relevant to the markets. (For example, when is a tariffed service not a month-to-month service, and vice-versa?) Within the revised 470 posting, applicants should be allowed to either indicate they have an RFP, or describe, in general, the type of service desired. Reforming procurement rules and the Form 470 is long overdue. The current situation with the 470 has negatively affected a host of eligible applicants (small and large, urban and rural) -- denying them funds that they should have received.

Definition of Internet Access

In this section, the FCC asks for comments on whether or not the program should allow funding for an internet access package that includes content if the package is the most cost-effective form of Internet access? We believe the program needs to evolve as technology and school information needs evolve. Per our discussion below, we ask that the Commission take a hard look at what types of internet access and web-hosting services should be eligible. Specifically, we agree that the program needs to now allow funding for internet access and web-hosting services that allow, and in fact encourage, schools to store and access content. For example, web-site hosting products that encourage teachers to provide content, and use content from other sources should be allowed. We agree with the FCC's query that the program should allow internet access that generates or alters the context of information. While we are not familiar with the rural health care program example cited, it is clear that the eligibility of these programs needs to be addressed.

Here we cite the FCC's March 8, 1996 NPRM and Order, at para.72 as the FCC notes some of the overall goals of the Program, as directed by Congress:

"…Modern, two-way, interactive capabilities will not only enable users at schools, libraries and rural health care facilities to access information, but also give students the ability to participate in educational activities at other schools…allow students, teachers, librarians and rural health care providers to consult with colleagues or experts at other institutions; may allow parents to participate more easily in their children's education by communicating with the school's telecommunications system…"

The NCLB Act calls for the enhancement of education through technology and the closing of the digital divide, in part through the effective integration of technology resources and systems with teacher training and curriculum development. The NCLB is a far-reaching Act, which requires the involvement of technology at many levels, from student training and achievement testing to staff training and the delivery of special services to students who have fallen behind their peers, as well as encouraging parental involvement on several levels.

Accordingly, the establishment and maintenance of a robust information network with easy access for all students and staff should have support and funding from the E-Rate program. Distance delivery of services becomes more important as the requirements of NCLB stretch local school resources. Small and rural districts need access to the resources of other districts, state universities and state departments of education in order to upgrade teacher qualifications. Their educational purpose should also support the multiple assessments of student achievement, which require electronic storage of data and the capacity for analysis and reporting. And to truly assure that no child left is left behind, the e-rate program needs to support services that allow schools to better serve children with developmental and physical limitations, including distance learning, and limited forms of home-based connectivity. Finally, many educational institutions, particularly in light of the requirements of NCLB, are trying to provide an educational environment where students can continue the learning process after the school doors close, and where parents can be involved in the educational activities of their children.

Under NCLB, it makes educational sense to provide a seamless educational environment in order for students to leave school at the regular time and go to a library or community center and gain access to programs, content and research on the Internet. To date, this idea has been piloted among a few school districts and libraries with great success. These institutions tend to be located in areas where they have sufficient resources to provide such services. However, students who, for example, live in public housing cannot access their work because schools and libraries currently are not permitted to share access to the E-rate discounted network with community groups and neighborhood centers. With the proper safeguards in place, we support the concept of being able to share E-rate discounted bandwidth with a limited class of currently non-eligible entities during off-school hours -- as long as the bandwidth is used for educational purposes.

Those safeguards, however, will be the key to ensuring that demand to the fund is not increased due to this provision, and that the entity does not initially request more than it needs for educational purposes. We agree that these safeguards, as the Commission suggested in its order commonly called the Alaska Waiver, should include:

- "That the school or library request only as much discounts for services as are reasonably necessary for educational purposes;

- "The additional use would not impose any additional costs on the schools and libraries program;

- "The use should be limited to times when the school is not using the services."

Further, we suggest that the Commission limit the entities receiving this currently unused bandwidth to non-profit entities that provide a robust educational program. Of course, equipment needed to connect these entities to the network would not be E-rate eligible in any way, only the unused bandwidth. We also believe that the scope needs to be kept to educational and, accordingly, staff development purposes. We also recommend

that the applicants assure the FCC that the Children's Internet Protection Act (CIPA), and other internet-safety related assurances are in place at any site that shares the bandwidth.

In support of this proposal -- and in light of the Commission's focus on waste and abuse -we submit that the best control over abuse of this expanded definition of eligible services is the applicant institution itself. Since the eligible applicant and billed entity must remain the school or library, and accordingly, they must pay for the discounted portion of the service(s) and support any reviews or audits, they will have to closely monitor the use and cost of services. Most importantly, the applicant must examine the value of sharing the resources to their institution in light of their mandate to improve teaching and learning. This important check, more than any other, will assure that applicants will only pay for services that enhance educational outcomes.

Hence, the FCC should closely analyze the provisions of NCLB, and make the appropriate changes in the eligibility list to support the activities that it requires of the educational community. As the e-rate program evolves, it cannot do so in a vacuum; it needs to bind itself more fully with other Federal educational efforts to improve student achievement.

Other Actions to Reduce Waste, Fraud and Abuse

Cost-Effective Funding Requests

In this section, the Commission asks for comments on how to define and implement a rule to require applicants to consider whether a particular package of services are the most "cost-effective" means of meeting its technology needs. The Commission adds that if such a rule were adopted, what would be the "test" for what is considered a "cost-effective" service? What should be the benchmarks (i.e. cost per student, total cost of ownership, etc.)?

ISBE notes that in our earlier comments to streamline the 470 and competitive bidding process, we note that the Commission needs to focus on the post- 471 review process to better monitor the ***outcome*** of the actual funding request, not rely on the process to dictate the outcome. We know of too many funded applications that knew how to game the process, but rendered less than optimal outcomes. In contrast, other worthy applications that may have missed a procedural step in the way -- but sought to purchase very cost-effective goods and services -- have been denied funding. Therefore, the Commission needs to initiate some standard of review to assure that applications fulfill this "cost-effective" standard -- and move away from policing 470 process to get at the intended outcome.

We believe the SLD already has an "unofficial" database that has specific product information and prices from vendors in order to better assess the reasonableness of requests. We repeat that this should be the starting point of the analysis, not the 470. Whether this database has "market" or "manufacturers suggested retail prices" or some other price target to assess reasonableness we do not know, but we believe that such a database can assist the SLD in assessing the "cost-effectiveness" of applicants' requests

for products and services. We believe the Commission should expand the use of such a database to accomplish its goals, not rely on the Form 470 to encourage and enforce cost-effective applicant requests.

The Commission may decide to use a benchmark such as cost per student as a guide to the reasonableness of the total dollar amount of the application. But we add that the Commission should use this factor as a starting point of its review, not the measuring stick by which to approve or deny applications. The Commission cannot inject itself as the ultimate decision-maker in this process unless it is willing to adhere to a "one price, one solution" mandate to every applicant. However, it can and should ask two very important questions of applicants: a) is the request a reasonable one to provide services to the classroom and is there evidence of waste given the size and goals of the request; and b) are the applications' prices of the goods and services in line with those available on the market? We note that the Commission should not inject itself into a dispute on whether technology A or B is better to accomplish the task, but it can investigate whether the scale and scope of the requested services accomplishes the telecommunications and internet access goals of the program -- and whether the prices in the request are reasonable and "cost-effective" uses of the program's resources.

Use of Consultants and Outside Experts

The Commission seeks comment on whether applicants should be required to identify any consultants or outside experts, whether paid or unpaid, that aid in the preparation of an applicants technology plan or in the applicant's procurement process. Also, the Commission seeks comment on whether consultants and outside experts offering their services to applicants should be required to register with USAC and to disclose any potential conflicts of interest derived from relationships with service providers.

SECA believes that unless carefully targeted, rules that identify and register "any" party providing technology planning, or any rules that prohibit service providers from providing "any form" of services, would deprive many applicants of needed expertise and would unduly constrain legitimate marketing practices of technology providers. In this area, the Commission needs to clearly distinguish between assistance to complete the application forms and assistance in choosing a vendor. Assistance in completing the forms and technology plans should continue to be offered through consultants, whether directly or indirectly supported by vendors. However, the Commission should continue to make clear that the actual submission of the Forms and the decisions on which vendors and technologies are chosen stays clear from influence by vendor-funded consultants or employees.

We add that while we will disagree with such an outcome, if the Commission does make rules to further restrict vendor-funded consultants and their efforts, it must do so fairly, regardless of whether the consultants are direct or contract employees of the vendor, or the consultants are part of an entity that receives "indirect" funds from vendors through a non-profit, foundation, or any other organizational structure. If not, the Commission will only encourage "gaming" of the system in this growing area.

The Commission needs to remember why consultants and vendors have become an important part of this program – the fact is applying has become too complicated for many applicants. Not all applicants have enough staff to fully map out and define their technology needs, especially as it relates to internet access and the internal connections products and services needed to gain classroom connectivity. Therefore, many do rely on consultants, vendors and others to help them map out what they need to procure. Among these are some of the smallest, poorest applicants (public and non-public) that still have limited classroom access.

We have no doubt that there is and important need to make sure the procurement process and, in particular, the vendor selection process, is done above reproach, free from manipulation. Hence, the key point in the process is influence by a consultant on the ultimate decision between vendors. But applicants need to be able to continue to draw on assistance in defining what is actually on the list of products and services needed on the Form 470, and in completing the 471 once the vendor selections have been made. In fact, schools many times find out of cost-saving innovations from vendors or consultants. The Commission should not shield them from that give and take, but require that the consultation not be done with a proprietary product or service in mind.

The Commission needs to know that applicants will need to continue to rely on vendors to assist them in the "what do we need to connect" part of the process – the application process is too complicated for many applicants to complete without the assistance. As well, vendor employees and vendor-funded consultants have already been helping applicants with the completion of e-rate forms – in many cases, it's the applicants themselves that have asked for this help, as SLD phone and web-site based assistance is not enough to complete the application and discount / reimbursement process.

Furthermore, as State's differ significantly in their abilities to directly assist applicants – and there continues to be no aid forthcoming to support state and regional support efforts -- consultants will continue to play a large role in this process. If the Commission seeks to eliminate such assistance, it needs to radically simplify the application process. Unfortunately, with recent actions in the wake of ***Ysleta,*** the application process appears to be moving towards more complexity, not less – hence, the need for consultants will not be any less.

Wide Area Networks

As a lead agency with the Illinois Century Network (ICN), the nation's largest state-funded internet access network -- and one of the largest applicants in the program -- we continue to submit comments in this important area. Consortia pool resources, negotiate bulk prices to reduce unit costs, and save their schools and libraries money. In turn, these savings are passed on to the program in the form of reduced requests. Per our earlier comments, our conservative estimate is that the ICN saves the program from between $11-$15 Million annually over individual applicant requests for internet access and traditional T-1 connection costs.

The value of consortia to the E-Rate program cannot be overstated. Large consortia, and state networks in particular, aggregate demand and reduce the total cost of telecommunications services for their members, and by extension, the program. Consortia also reduce the number of applications that SLD must process. Most state networks operate under intense scrutiny by state agencies and state legislators, thereby reducing the risk of fraud, waste, and abuse.

As we have commented and testified earlier, Consortium applications would benefit greatly from administrative reforms to address their size and complexity. We have stated these throughout the years of the program. Among these include: focused resources for large, statewide consortia applications; a streamlining of the application process; allowing consortia to merge the Letters of Agency (LOA's) and the Form 479's, a duplicative and cumbersome process whose reform is long overdue; and allow consortia to be treated fairly and be able to use a weighted average to determine its consortia-wide discount levels. We ask that the Commission direct the Administrator to work on these issues to lessen the bureaucratic and regulatory burden for consortia, consortia that are the biggest supporters of the goals of the program to provide universal, cost-effective internet access.

We applaud the Administrator's efforts to expedite applications and devote resources to them, but still find many of the other issues cited here neither addressed or discussed after several years of petitioning through comments like these.

With regards the specific issues cited under the wide-area networks section of these comments, we would like to concentrate on one issue – the eligibility of dark fiber. The ISBE, and the State's internet access network, the Illinois Century Network (ICN) are clearly of the opinion that consortia should have the ability to procure dark fiber from vendors when it is the most cost-effective service available. In short, as markets evolve, as technology progresses, as State's and local entities allow a variety of vendors to provide services to residents, applicants need to be able to lease dark fiber on the same terms and conditions as other services.

Congress and the FCC have made "full flexibility" to choose among telecommunications services a core of this program (FCC 97-157 – Universal Service Report and Order, May 1997 para 433). In a rapidly-changing technological environment, full flexibility will empower applicants to implement those goals. The ISBE asks that the Commission allow applicants to lease dark fiber on the same terms and conditions as other services.

We note here that the Program already allows non-telecommunications vendors to provide internet access through various forms of technology, including re-selling various forms of bandwidth, including dark fiber arrangements. Why can't an applicant, who has the knowledge and expertise to "light" and implement the dark fiber be allowed to do so directly? In short, the Commission's denial of access to dark fiber is in direct violation of the program's own policy foundation of allowing applicants the full flexibility to procure the most cost-effective services.

Technology Plans

As the primary reviewer and approval entity for schools in the State of Illinois, we are not encouraged by the Commission's consideration of codifying current SLD technology plan requirements to now include an analysis of leasing vs. purchasing services, and requiring schools to map out its plans to implement cost-effectiveness in purchasing services and meeting its educational objectives (Third Report at para 94). In short, we believe that the Commission needs to recognize the goal of a technology plan, not turn the technology plan into an annual RFP for the e-rate program. At the very least, the Commission should allow the U.S. Department of Education ("DOE") to be the lead agency in this area, and the e-rate should take its direction from the DOE and States, not the other way around. Under the current situation, while these plans referred to as technology plans, their requirements and review guidelines are "wire and box-based"e-rate plans.

Technology plans are -- first and foremost -- plans whose goal is to map out how technology will improve teaching and learning. The intent of the plan is to integrate the use of modern telecommunications services (including, but not limited to, services partially funded by the e-rate program) towards improve teaching and learning, providing students new and improved educational opportunities previously denied. We repeat that the technology plan is not a "wire and box" plan. Nevertheless, the Commission's latest ***Ysleta***-case driven rulings on the matter appear to do just that. We believe that Congress' original intent was to assure that modern telecommunications services would improve teaching and learning, and quality of life, not be goals in and of themselves.

Here again we cite the FCC's March 8, 1996 NPRM and Order, at para.72 the FCC noted that:

"…access to telecommunications services is important to schools, classrooms, libraries, and rural health care providers for a number of reasons. Congress explicitly recognized the importance of telecommunications to these educational institutions and rural health care providers in enacting this legislation…The provisions of [Section 254] subsection (h) will help open new worlds of knowledge, learning and education to all Americans rich and poor, rural and urban. They are intended, for example, to provide the ability to browse library collections, review the collections of museums, or find new information on the treatment of illness, to Americans everywhere via schools and libraries. This universal access will assure that no one is barred from benefiting from the power of the Information Age."

The Commission needs to understand that schools do tech plans for reasons other than E-rate, including NCLB, and other State learning technology initiatives. As such, the FCC should reconcile its interpretation of the rules and its requirements with those of these other important state and local funding sources. We also add here with no less fervor that States input in this process is critical – we are the primary, unpaid reviewers of school technology plans.

Finally, we ask the FCC to direct the SLD (and any of its designated auditors or reviewers) to match their tech plan review criteria with a sense of reality. For example, reports are surfacing that auditors and reviewers are writing up cases where an applicant school fails to cover all of the e-rate discounted services in their tech plans. This includes services such as local voice services, cell-phones and other basic telecommunications services. We ask that we remind ourselves, again, that tech plans are strategic school improvement plans that integrate technology with improved teaching and learning. Not everyone should have to weave services such as local phone services with that process. In short, we ask that the FCC/SLD, and any reviewers or auditors working on their behalf, to take a reasonable -- and relevant -- review standard when auditing technology plans.

We ask that the Commission refrain from burdening technology plans even further, and seek cooperation and guidance from the DOE and States on a technology plan that comports with the entire section from the FCC's 97-157 May 7, 1997 Report and Order (para 572-574). This section does more than state that applicants "do their homework" on ***all*** services in their applications. We submit here that the FCC is not bound by legislative directives on this issue, but has made its own narrow and literal interpretation of this requirement. If the FCC takes a look at the larger legislative intent of the program and its own discussion on the matter, it is clear that Congress or the FCC did not seek to burden schools with this rule, but instead alert applicants that these services are not purchased in isolation of the larger educational structure. Both Congress and the FCC noted that schools already have technology plans for "Goals 2000" and the Technology Literacy Challenge Fund, and these important programs are also vital to accomplishing the e-rate program's goals. The Commission should not back away from their own responsibility to act in accordance with the overall goals of the program, and other Federal and State agencies with a common vision to promote universal access to modern telecommunications -- in support of improved teaching and learning for everyone.

Use of Surveys to Determine School Lunch Eligibility

Income surveys are an important part of the program, filling the gap for those schools that are not part of the National School Lunch Program -- including many non-public schools, and for those schools that do not receive a high number of forms returned, a problem especially true for many public and non-public high schools in the program. For many, these surveys are considered the most onerous part of the application process by school districts. This is especially true for us here in Illinois, where there are a large number of situations where English is not the first language, lower rates of literacy among adults, as well as a general distrust and disdain for questionnaires that ask for sensitive personal information. In short, the FCC needs to understand that codifying rules on surveys will make a difficult situation even worse. What it should focus on is making the survey process easier for the applicant, while still allowing the data to be accessible for audit by the SLD. Codifying a 50% response rate for surveys does neither.

For most public schools, an income survey document is done as a supplement to the more formal eligibility documentation the school tries to gather on a regular basis. The school is trying to document cases where administrators know, either because of a sibling or other indicator, that the family is eligible. The Commission should recognize that a 50% sample is unreasonable in this case. The Commission should seek other poverty data from the area to substantiate a claim by the applicant, and ask for the specific income surveys to assess their validity. In many cases, this would include looking at census data, and/or data from a neighboring school, or an elementary feeder school to check the accuracy of the supplemental surveys.

Surveys and Non-Public Schools

Surveys for non-public schools usually fall into two categories. The first is a high-poverty, high-discount school that is not part of the lunch program. We submit that these situations are relatively rare, because many of these schools take advantage of State and Federal "milk" programs that have similar income requirements as the lunch programs. But if these schools need to survey, they should be asked to survey as many children as needed to support the higher discount levels. In this case, a 50% survey rate should be used. For example, asking for a sample of at least 50% of the population to support a high (40% or more) lunch eligibility request makes sense.

But a 50% sample rule is not appropriate for the, second, and much more common situation: the non-public school that only seeks to validate a 1 percent to 19 percent lunch eligibility rate. These schools cannot qualify for more than the corresponding 40% (urban) or 50% (rural) discount. To offer a better example, a small school of 300 children should only need to find and validate 3 eligible children to support their application. In this case, we ask that the Commission do not impose a 50% sample rule – it makes no sense to survey 150 children to find three. Moreover, these schools already have a good idea of who the children are -- based on their knowledge of their low-income family students and any tuition assistance it may offer them. So long as the school can verify its 1% eligibility with copies of the actual surveys, the review should move forward without imposing a 50% sample rule.

Therefore we ask that the Commission do not implement their 50% sample proposal. But instead, make it an exception in cases where it is warranted. Our first-hand experience with public and non-public school applicants tells us the cases where it should be imposed are the exception rather than the rule. The Commission should act accordingly, reserving the right to review any and all surveys and any other supporting evidence, but showing discretion and s dose of common sense in asking for the 50% sample. Imposing the rule on a blanket basis will deny many small schools, and the relatively small amounts they request from the program.

Conclusions

We again commend the FCC and the USAC/SLD for their efforts in implementing and administering the E-rate program. The program has a lot to be proud of in its efforts at providing resources to address the technology needs of many of our poorest and most isolated schools. Our comments are frank, honest recommendations based on our direct experience with applicants, submitted in an effort to improve the program. But we are firm in our belief that the time is long overdue to make substantive changes that will make the process easier -- and more accountable -- for applicant and administrator alike.

We restate our comments which note that at the outset, the Commission and the SLD were given the legislative ability and authority to change discount levels to better serve the program's goals and purposes. To date, the FCC has never taken advantage of this simple, yet direct, change in order to address a host of current e-rate concerns.

We also restate our case that the FCC needs to better meld the program with other Federal initiatives such as the No Child Left Behind (NCLB) Act, and efforts to move away from it in the area of technology plans is misguided. The e-rate should coordinate itself better to other educational technology initiatives.

The founders of the e-rate program expended a lot of time, energy and vision in its creation. We should do no less to assure that the program continues to support their goals and does not get bogged down in Rules and Regulations that, ultimately, diminish its impact, and do little to diminish waste, fraud and abuse. We stand ready to assist the FCC and the USAC/SLD with these important efforts – and we respectfully ask that the process begin promptly.

Please do not hesitate to call on us for any assistance in these important matters.